

The Salisbury Planning Board held its regular meeting on Tuesday, February 8, 2005 in the City Council Chamber of the Salisbury City Hall at 4:00 p.m. with the following being present and absent:

PRESENT: Lou Manning, Brian Miller, Rodney Queen, Sandy Reitz, Jeff Smith, Valerie Stewart, Albert Stout, Rev. Jerry Wilkes and Diane Young

ABSENT: Len Clark, Mitzi Clement, and Dr. James Johnson

STAFF: Janet Gapen, Dan Mikkelson, Preston Mitchell, Diana Moghrabi, Joe Morris, David Phillips, Craig Powers, Lynn Raker, and Patrick Ritchie

The meeting was called to order by Co-Chairman **Rodney Queen**. Co-Chairman Queen offered a prayer to begin. The minutes of the January 25, 2005 meeting were approved as published.

Due to some technical difficulty, the agenda was reversed while an effort was made to find a solution for Group Development PowerPoint presentations.

OTHER BOARD BUSINESS

Chairman

Rodney Queen looked ahead to the next Planning Board meeting when members will address a request for M-1 to B-6 zoning as well as Wal Mart's request for outdoor displays of plants. This has also been an issue for Lowes. Controls are necessary for parking, height restrictions, and safety concerns.

Board Members

Jeff Smith has concerns about losing parking because of outdoor displays and sees humor in outside storage when Lowes moved the lumberyard inside. He questions whether the need for outside storage is because buildings were not built as large as they should have been. He looks favorably upon moving any property from M-1 to B-6. He looks forward to seeing the actual request.

Jeff Smith thanked Planning Board members who attended the session at the City Council retreat last Thursday. It was a useful and helpful session in regard to the legislative process. Planning Board is focused on planning for the future and must understand core values in the decision making process.

COMMITTEE REPORTS

Legislative Committee B: Len Clark, ch, Sandy Reitz, v. ch., Rodney Queen, James Johnson, and Albert Stout, Jr.

Sandy Reitz reported that the committee met on Wednesday, February 2 at 8:30 a.m. in the first floor conference room. The committee requests that Planning Board consider placing palm readers/spiritual advisors in the B-1 zoning district. There will be one more meeting to better define the use. The committee will meet on Tuesday, February 15 at 8:30 a.m.

Jeff Smith will accept the committee recommendation and would like to advise the public who attended the Courtesy Hearing on **Z-18-04**. He would like to receive their input before voting for a text amendment. A meeting is scheduled for Tuesday, February 15, 2005 at 8:30 a.m. in the first floor conference room.

Brian Miller went on record as being against the palm reader/spiritual advisor use in the gateways of Salisbury. It would not be the first impression he would desire for Salisbury. He would like to see some restrictions if allowed in B-1.

Janet Gapen reminded Planning Board of the procedure for a text amendment and that it would be advertised in the newspaper for a Public Hearing.

Diane Young recalled that Mrs. Dora Dalton did not refer to herself as a palm reader; therefore, Diane would like clear definition of the use that will be added to the B-1 zoning district.

Albert Stout stated that Preston Mitchell had researched the definition and found nothing to help in writing a text amendment. Regardless of whether you called the business palm reader, spiritual advisor, etc. it is up to the Planning Board to define the use.

Legislative Committee A

Sign Ordinance (Special Events) – **Brian Miller** (chair), Jerry Wilkes, Lou Manning, Valerie Stewart, and Diane Young. **Brian Miller** showed the PowerPoint that will be presented to City Council on February 15.

Salisbury has a strong history of supporting community appearance issues. The Salisbury Vision 2020 Plan quotes a vision from the task force: "We see a community of clean, tree-lined streets, subtle commercial signage, and buildings of architectural distinction nestled amidst properly designed and well-maintained landscaping."

The purpose of the sign ordinance as stated in the text is "To regulate and control signs and their placement throughout the City... to provide a pleasing overall environmental setting and good community appearance, which is deemed vital to the continued economic attractiveness of the city."

The recent 2004 Salisbury Citizen Survey revealed that 89 percent of respondents had a favorable impression of the importance of community appearance. Fifty-three percent strongly agreed and only 10 percent were neutral.

The City Council is taking compelling steps to create a positive business climate in the City. The City is streamlining the development review process and revising the utility extension policy. A new land development ordinance, currently under construction, should further simplify the development process. Other business-enhancing initiatives include the civic and convention center study, the Farmers' Market and the proposed business incubator, and the Rowan Jobs Initiative.

A city that values and preserves community appearance is a more desirable business venue.

- September 17, 2002: David Harrison, owner of Harrison's Florist, appeared before City Council to ask that he be allowed to continue to use various signs and a banner to advertise sales at his business. Several other business owners were present to support Mr. Harrison and requested that current sign regulations be revised. Council directed a joint Planning Board/ CAC committee to review sign ordinance provisions for businesses to advertise special sales events.
- December 17, 2002: The Committee presented a proposal to Council for temporary signs for special events or promotions. Council referred Special Sales Signs Committee's recommendations to Planning Board for zoning text amendment.
- April 15, 2003: Council adopted a text amendment for temporary signs for special events or promotions.

Prior to adoption of the amendment businesses were allowed to use a banner to advertise only grand openings and going out of business sales.

See City Ordinance - Section 9.13. Temporary signs for special events or promotions.

November 2003 – November 2004

Businesses in Salisbury (total)		1,689
Permits issued for Temporary Signs		23
Businesses with repeat violations		5
Total fines levied	approximately	\$1,500
Fines collected	approximately	\$300

Brian showed photographs of violations like oversized banners, crime tape, and balloons.

Enforcement (City's standard citation policy):

- 1st contact: verbal warning w/ explanation of ordinance
- 2nd contact: written civil citation
- 3rd contact: written civil citation w/ \$50 fine. No additional permits for 3 months.
- 4th contact: written civil citation w/ \$100 fine. No additional permits for 6 months.

Additional contacts:

- Letter advising business owner of \$100 fine per day for additional violations. Violation business turned over to City Attorney.

Additional contacts: letter advising business owner of \$100 fine/ day for additional violations. Violation business turned over to City Attorney.

Except as provided in subsection (b), if any person shall violate an ordinance of a county, city, town, or metropolitan sewerage district created under Article 5 of Chapter 162A, he shall be guilty of a Class 3 misdemeanor and shall be fined not more than five hundred dollars (\$500.00). No fine shall exceed fifty dollars (\$50.00) unless the ordinance expressly states that the maximum fine is greater than fifty dollars (\$50.00).

Issues for Council Consideration:

- Communication: Are we providing enough information about sales sign provisions to businesses?
- Enforcement issues: follow-through, fairness, effectiveness of current civil penalties
- Patterns of violation: process being ignored, geographic concentration
- Requesting direction from Council

Dan Mikkelsen did not want to imply that this should be directed to another committee. If there is to be greater enforcement then that does need the support of the City Council. If this issue is "over-enforced" City Council would probably not like that.

Jeff Smith noted this committee was a joint effort of Planning Board and the Community Appearance Commission. He had not supported this ordinance because he felt it was too tedious to enforce. He did not think there would be a "buy-in" - those who were abusing the sign ordinance would not adhere to the new ordinance. This is not about the signs, but about the core values of the community. This ordinance was a compromise but was not the best solution. It is necessary to consider all points of view. Not only "what do we get," but "what is someone else losing" when an ordinance is adopted. He thinks it is time for a much larger group to look at the temporary sign issue. It is time for businesses owners to step up to the plate and work out a solution. This is harder than the skateboard issue.

Brian Miller said the results of the citizens' survey show there is support that the committee is headed in the right direction. He also feels there is a better solution with the effort of a larger group and Council direction. Some have benefited from the compromise.

Rodney Queen felt some of the violations were not that offensive.

GROUP DEVELOPMENT SITE PLAN

David Phillips made the staff presentation for the following group development site plans.

- (1) **G-07-72** Mr. Gatti's at Salisbury Township
 122 F South Avalon Drive
 Tax Map 070, Parcel P/O 003, Zoning B-6

Mr. Mark Habeeb submitted the application for revisions to the previously approved site plan for a restaurant addition to include adding a drive-thru. The parking lot will go from 95 spaces to 73 parking spaces. Required parking spaces are 59 and they are providing 73. Landscaping will change slightly. All zoning criteria have been met. The Technical Review Committee recommends approval of the application as submitted.

Public Comment

Valerie Habeeb, 333 Camelot Drive, will be running the restaurant. She has six children and felt families needed the use of a drive-thru. The drive-thru is on a call-ahead ordering system so traffic will flow through the drive-thru service.

Board Discussion

Jeff Smith asked for clarification of the landscaping points. He stated his disappointment in losing a couple of shade trees to bushes.

Brian Miller made a motion to approve **G-07-72** as submitted. **Albert Stout** seconded the motion with all members voting AYE.

- (2) **G-09-03** The Gables at Kepley Farm
 1900 Block of Faith Road
 Tax Map 403, Parcel 001, Zoning RDB

Rodney Queen removed himself from the Board for a possible conflict of interest on a related issue. **Jeff Smith** performed the duties of chairman for this case.

Mr. Jim Burgess, for Burgess & Associates, submitted the previously approved group development site plan for a residential community with a revision to a phase line, a request for valley gutter, and minor revisions to setbacks and lot lines. The community is to be located in the 1900 block of Faith Road. The Technical Review Committee recommends approval of the phase line, setback and lot line revisions; however, there was a 50/50 vote regarding changes to curb and gutter. Planning Board will need to determine if valley gutter is an integral part of the development. As per the Zoning Ordinance, vertical curb and gutter is required in RDB districts.

The residential development district is intended to provide a district in which the principal use of land is for residential purposes in a variety of housing types which shall comply with the provisions set out for this district. The purpose of the district is to provide for:

- Flexibility in design to facilitate sound residential development
- Creation of compatible neighborhood arrangements that give the home buyer greater choice in selecting his living environment
- Sufficient freedom for the developer to submit plans that embody a creative approach to the use of land and related physical development, as well as utilizing innovating techniques to enhance the visual character of the development
- Efficient use of land which may result in smaller street and utility networks and reduce development and maintenance cost
- Establishment of criteria for the inclusion of compatible associated uses to complement the residential development

Section 12.06 Group Development

2. *Procedure.* Any proposed group development shall be reviewed by the Planning Board. After review, the planning board shall make a recommendation to the City Council. Planning Board recommendation may be to approve the request as submitted, to approve the request as modified with suggested recommendations or to deny the request.

3. *Requirements.* In its recommendation the Planning Board may recommend approval based on modifications that would be more stringent than otherwise would be required.

Section 8.19 Residential Development "B"

Provisions for streets, sidewalks, etc. The following provisions shall be applicable:

(1) Streets shall be designed and constructed for public dedication and city maintenance in accordance with the adopted Uniform Construction Standards of the City of Salisbury. (Private streets prohibited.)

(2) Curb and gutter shall be restricted to 6-inch curb and 12-inch gutter vertical concrete or vertical granite block (no valley curbing).

(3) Sidewalks shall be required on both sides, with the minimum width of these sidewalks to be five feet.

(4) Grass strips (between street and sidewalk) shall be required on both sides, with the minimum widths of these grass strips to be three feet.

(5) Developers shall provide on the site plan a cross section drawing showing street context with the following criteria: right-of way widths, pavement widths, curb and gutter profile, grass strip widths and locations, sidewalk widths and locations, underground utilities' widths and locations, and front yard setbacks.

1. The developer is requesting to "break up" Phase 1 to Phase 1A and Phase 1B.
2. The developer is requesting a change in setback from 30 feet to 20 feet.
3. Property lines have been changed to include a clubhouse. The direction of a couple of lots has changed.
4. The developer is requesting relief from standard in order to install valley curbing.

Planning Board will determine if this valley curbing is an integral part of the development. In February of 2004 the developer appeared before the Zoning Board of Adjustment (ZBA) to request a variance so he could install valley curbing. ZBA voted 3-2 in favor of valley curbing, but because it was a variance the vote needed to be four-fifths vote to grant the variance. The variance was denied.

Dan Mikkelsen said the request went to ZBA originally because the City Code clearly says that a RDB development shall be vertical curb and not valley guttering. Staff ruled that it should be upheld and the developer asked to appeal that ruling. What is the intent of the RDB district? To allow for the items listed in the presentation. Mr. Mikkelsen challenged the developer to come before the Planning Board with the detail that would go into a group development (commercial) site plan - committing to a plan. The authority exists for City Council to approve valley guttering as a good design detail.

Valerie Stewart asked if other builders have been granted the same relief from standards in RDB development. Staff replied that no new developments have been submitted since this standard had been adopted. Other developments had already begun construction and were allowed to continue with valley guttering.

Public Comment

Jim Burgess, Developer, 830 Faith Road, provided a handout for the Planning Board. Mr. Burgess described some of the details of the project. His vision is for an active adult development for people over 55 years of age. He believes valley vs. vertical curbing is an issue that concerns residents in this age bracket. Mr. Burgess gave the Planning Board the project's history and mentioned his frustrations with the process that he has encountered in approaching this project. He is ready to pour concrete and would like a decision from Planning Board so he will be able to move forward.

Board Discussion

Jeff Smith took each item separately.

1. The developer is requesting to "break up" Phase 1 to Phase 1A and Phase 1B.
Diane Young made a motion to approve the Phase line. **Jerry Wilkes** seconded the motion with all members voting **AYE**.
2. The developer is requesting a change in setback from 30 feet to 20 feet.
Sandy Reitz made a motion to approve setbacks from 30 to 20 feet. **Jerry Wilkes** seconded the motion with all members voting **AYE**.
3. Property lines have been changed to include a clubhouse. The direction of a couple of lots has changed.
Jerry Wilkes made a motion to approve the lot line revisions to Phases 1A and 1B. **Albert Stout** seconded the motion with all members voting **AYE**.
4. The developer is requesting relief from standard in order to install valley curbing.

Valerie Stewart made a motion to send this fourth item to committee to try to find justification for relief from standards. She did not personally object to the valley curbing and said she did not have the background to understand the reasoning behind the requirement of valley gutters as standard in Salisbury's Ordinance. She has concerns about the fairness to other developers who request relief from standards. She feels it is a quality of life issue. **Brian Miller** seconded the motion.

Sandy Reitz has reservations about granting relief. She appreciated the letter Planning Board received from Clyde Fahnstock on behalf of older Americans.

Diane Young would be against sending this to committee because it is a recurring issue with development site plans. This could set a precedent for sending all requests for variance to committee. She felt that Planning Board had enough information to make a decision. She questioned why this was an eleventh hour request.

Brian Miller felt the problem lies in the fact that the ordinance does not give the Planning Board clear direction. The Zoning Board of Adjustment (ZBA) is split on the issue, staff is split on the issue and Planning Board is being asked to decide in 15 minutes. He, like Ms. Stewart, did not know where the standard of 6-inch vertical curbing came from. If it is our standard, then it should be upheld, but there is too much ambiguity in the ordinance. He hopes the new land development ordinance will correct this problem. Mr. Miller felt it was ridiculous to put developers through this since there was not an engineering reason to deny the variance. He would be voting to deny the variance – against his personal convictions.

Jeff Smith said, “If there is a problem with the ordinance then we address the ordinance.” If the Board grants relief then he wants it to be an equity issue; it needs to occur on a level playing field for all.

Preston Mitchell said typical items that would go to committee are large-scale area rezonings, zoning text amendments, zoning text amendments, subdivision text amendments, a request from City Council, the full Planning Board or Planning Staff.

The vote to send G-09-03 to committee was denied by a 7-1 vote. Valerie Stewart voted in favor of sending it to committee.

Mr. Smith agreed that this is a tough call in some cases. He was on the committee that put this standard in RDB because of flexibility, compatibility, freedom of creativity, efficient use of land and encouraging compatible uses. This was a solution and it is reasonable to ask for something in return. The reason behind this is not to have someone step up 6 inches from a curb; the intent is to move out of the domain of the automobile as mentioned in the Vision 2020 Plan. He recommended members drive through Hidden Creek one evening to see how many cars are across the valley curbing onto the grass. There is more definition for pedestrians with vertical curbing.

Lou Manning does not believe the vertical curb is a deterrent for wheelchairs and it does give better separation between cars and pedestrians.

Albert Stout does not object to valley curb, but until someone convinces him that there is a significant change in an individual’s quality of life he would have to abide by the standards in the ordinance.

Brian Miller made a motion to deny the request for a change from vertical curbing to valley curbing in G-09-03. **Jerry Wilkes** seconded the motion with all members voting AYE. (8-0)

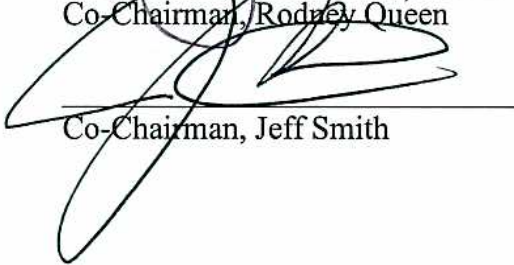
A motion was made and seconded to bring Rodney Queen back to the Board.

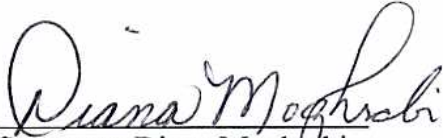
Rodney Queen commented that valley curbing was left in the R-8 district with houses set at 40-foot setbacks. Vertical curbing was placed in multi-family areas - the RDA, RDB and R6A -

because a developer could control the setbacks. Because the structure could be pulled so close to the street the vertical curbing was chosen.

There being no further business to come before the Board, the meeting was adjourned.



Co-Chairman, Rodney Queen

Co-Chairman, Jeff Smith

Secretary, Diana Moghrabi